

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-18842 of 2020 (O&M)

Date of decision : 29.9.2020

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Rahul

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Vishal Nehra, Advocate
for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 439 Cr.P.C. for grant of regular bail has been filed by petitioner Rahul, aged about 30 years son of Ravi, resident of village Kheri Sadh, Tehsil and District Rohtak, an accused in FIR No. 282 dated 5.10.2019, for offences under Section 376, 354-D, 506 IPC and Section 67 A of IT Act, registered at Police Station IMT Rohtak.

Briefly stated, facts of the case, as per the prosecution story are that prosecutrix (name withheld, to conceal her identity), submitted an application at Police Station IMT Rohtak, on 5.10.2019, wherein she stated that she is a married woman having

children; the accused used to visit her house and keep an evil eye upon her; on one occasion, he took her to Civil Hospital, Rohtak, because she was to take medicine for her children, where the accused made her take tea laced with some intoxicant substance and thereafter he took her to a hotel and did wrong acts with her. *Inter alia* in the complaint, the prosecutrix alleged that the petitioner had taken her obscene photographs and prepared video film also and then left her in her house. That incident had taken place about 4-5 months earlier. Furthermore, on 4.10.2019, Rahul came to her, asking her to accompany him. When the prosecutrix refused, he showed her nude photographs and obscene video film in his phone threatening that he will make the photographs and video films viral. On 5.10.2019 at 8.00 A.M., in the morning accused again asked her to accompany her, when she refused, then he made her nude photographs and obscene video films viral in the village and threatened to kill her along with her family members.

On the basis of such written complaint, formal FIR was registered. Accused was arrested in this case on 5.10.2019. On completion of investigation, challan has since been filed in the Court.

The accused had moved an application for grant of regular bail in the Court of Sessions at Rohtak. It was dealt with and disposed of by Special Judge-cum-Additional Sessions Judge, Rohtak vide order dated 14.1.2020, inasmuch as, the application was dismissed. As such he has knocked at the door of this Court craving for grant of similar relief, which request is being opposed by the State

counsel.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record.

With regard to the submission made by learned counsel for the petitioner that there is gross delay in reporting the matter to the police and petitioner has not committed any offence, furthermore he does not have any criminal record, these contentions are not helpful to the petitioner in making a case for his release on bail. The delay in reporting the matter in case of sexual offences is not of much significance. The woman-folk especially belonging to economically and educationally backward section of society, are hesitant to come out with such ordeal fearing social stigma and becoming target of ridicule in the society. Nevertheless, such factor can be better appreciated by the trial court while determining the guilt of the accused and is of not much significance while considering the case of the petitioner for grant of regular bail.

As far as his plea put forward that petitioner is innocent, he has been specifically named by the prosecutrix in the FIR. When he was arrested in this case, he is stated to have suffered disclosure statement before the police and then in police custody got the place demarcated where he had committed rape upon the accused and took her nude photographs and prepared obscene films. During investigation also his involvement in the crime was found to be there. In any case, as stated earlier his guilt shall be determined during the course of trial by the Court of Sessions and at this stage no clean chit

can be given to him.

With regard to the petitioner not having earlier criminal record, again that does not help the petitioner much because there is always a first crime in committing the offence.

The allegations against the petitioner are very grave and serious of not only physically exploiting the prosecutrix without her consent, but also taking her nude photographs and preparing obscene video films, which he had later on made viral in the village. The accused after being arrested is said to have got the place of occurrence demarcated in pursuance of the disclosure statement suffered by him before the Investigating Officer. His involvement in this case has been found as a result of investigation.

The apprehension expressed by the State counsel that if he is granted the concession of bail, there is every likelihood of the petitioner influencing the prosecution witnesses and absconding even, cannot be brushed aside in a light manner.

In view of the above discussion, the petition is found to be without any merit and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

29.9.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No